



an introduction to patents

A patent is a grant from the government given for an invention of a product or a process that has a new functional aspect or contains a new technical effect. It gives the owner a limited monopoly right in return for the disclosure of that invention to the public generally.

The advantage for the holder of the patent is that they can exploit a market advantage over other competitors for their new product or process for a limited time, 20 years in the UK. After this time, the invention will enter the public domain and can be implemented by any other party in relation to their own products or processes, thereby creating a more competitive market and benefiting the consumer.

What are the requirements for filing a patent?

There are several conditions attached to a successful patent application. To be patentable your invention must be:

- New;
- Involve an inventive step;
- Be capable of industrial application; and
- Not be "excluded".

New

The invention must never have been made public anywhere in the world before the date on which an application for a patent is filed. This means that it must not have been published in any form whether written or oral to any person outside the organisation in which the invention was made prior to the application for patent. However, any discussions that you have with your solicitors or the Patent office will be treated as confidential and will not count as disclosure of your invention.

Involve an inventive step

This is an important provision and the test for an inventive step is when comparing the invention with what is already known within the same field or area of expertise, the inventive step would not have been obvious to someone within the field with a good knowledge and experience of the subject.

Be capable of industrial application

It must be apparent that the patent can be used in industry for the development of a product or process for example as a product with some new material or substance or in an industrial process or a new method of operation.

Not an "excluded" Condition

There are several conditions that create an exclusion on inventions. These are set out in more detail in the Patents Act 1977 (as amended).

How do I apply for a patent in the UK?

There are several different ways to apply for a patent in the UK:

- By national application
- By a European Patent Convention (EPC) application; or
- By a Patent Co-Operation Treaty (PCT) application.

The application is a very important document which if not completed correctly can cause your application and therefore your right to a patent to fail completely. In addition it is important to receive advice on which countries you require protection in and the timing of those applications whether individually or under the EPC or PCT. We would always therefore advise that you seek protection from a qualified Patent Attorney. We are happy to provide you with details of Patent Attorneys should you wish.

What are the benefits of patent protection?

The owner of the patent is granted a monopoly right meaning that any other party is prevented from making, using, selling or importing the invention or process described in the patent for commercial purposes.

The owner of the patent can take action against infringers seeking a range of remedies including an injunction to prevent them from carrying out infringing acts, compensation for any damage caused to their business or alternatively an account of the profits made by the infringer and delivery up or destruction of infringing goods or equipment.

As knowledge of the patent is often an important factor in patent infringement actions the owner of the patent should always state the number of the patent on any products which have been made utilising the patent or the invention disclosed in it.

If you consider your patent rights are being infringed you should consult a solicitor specialising in intellectual property immediately as you may lose your right to be granted an interim injunction if you delay your decision.

How can I maximise the value of my patent?

A patent is a business asset like any other form of property and can be dealt with accordingly.

The most common ways of gaining income from a patent are to sell it outright by way of assignment or to licence it to other parties so they can use it. It is often possible to licence the same patent to a number of different parties, either for the same or different purposes or in different industries.

However provided the borrower is convinced of the potential of your patent it is also possible to use the patent as security for a loan or other investment in the business.



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